

assist the minor in attaining the necessary verifications if one or more of these exemptions is alleged.

[57 FR 30428, July 9, 1992]

§ 233.110 Foster care maintenance and adoption assistance.

(a) *State plan requirements.* A State plan under title IV-A of the Social Security Act must provide that the State has in effect a plan approved under part E, title IV of the Social Security Act, and operates a foster care maintenance and adoption assistance program in conformity with such a plan.

(b) [Reserved]

[51 FR 9206, Mar. 18, 1986]

§ 233.120 Emergency assistance to needy families with children.

(a) *Requirements for State plans.* A State plan under title IV, part A, of the Social Security Act, providing for emergency assistance to needy families with children must:

(1) Specify the eligibility conditions imposed for the receipt of emergency assistance. These conditions may be more liberal than those applicable to other parts of the plan. (See paragraph (b)(1) of this section for scope of Federal financial participation.)

(2) Specify if migrant workers with families will be included and, if emergency assistance will not be available to them Statewide, the part or parts of the State in which it will be provided.

(3) Specify the emergency needs that will be met, whether mass feeding or clothing distribution are included, and the methods of providing payments, medical care, and other remedial care.

(4) Specify which of the following services will be provided: Information, referral, counseling, securing family shelter, child care, legal services, and any other services that meet needs attributable to the emergency or unusual crisis situations.

(5) Provide that emergency assistance will be given forthwith.

(b) *Federal financial participation.* Beginning with the effective date of approval of the amendment to the State plan for AFDC which provides for emergency assistance to needy families with children pursuant to section 406(e) of the Act:

(1) Federal financial participation is available for emergency assistance to or on behalf of a needy child under the age of 21 and any other member of the household in which he is living if:

(i) Such child is (or, within 6 months prior to the month in which such assistance is requested, has been) living with any of the relatives specified in section 406(a)(1) of the Act in a place of residence maintained by one or more of such relatives as his or their own home,

(ii) Such child is without resources immediately accessible to meet his needs,

(iii) The emergency assistance is necessary to avoid destitution of such child or to provide living arrangements for him in a home, and

(iv) His destitution or need for living arrangements did not arise because he or such relative refused without good cause to accept employment or training for employment.

(2) The rate of Federal financial participation in expenditures during a quarter as emergency assistance in accordance with the provisions of an approved State plan is 50 percent of the total amount of such expenditures which are (i) in the form of money payments, payments in kind, or such other payments as the State agency specifies, including loans and vendor payments, or medical or remedial care recognized under State law, with respect to or on behalf of individuals described in paragraph (b)(1) of this section; (ii) for administration, including costs incurred in determining eligibility, in the payment process, and for other related administrative activities; and (iii) for the following services provided to individuals described in paragraph (b)(1) of this section, directly by staff of the agency, or by purchase from other sources: Information, referral, counseling, securing family shelter, child care, legal services, and any other services that meet needs attributable to the emergency or unusual crisis situations.

(3) Federal matching is available only for emergency assistance which the State authorizes during one period of 30 consecutive days in any 12 consecutive months, including payments which are to meet needs which arose

before such 30-day period or are for such needs as rent which extend beyond the 30-day period. Another condition for Federal participation is that the State has a reasonable method of determining the value of goods in kind or services provided for emergency assistance.

[34 FR 393, Jan. 10, 1969, as amended at 39 FR 5316, Feb. 12, 1974]

§ 233.145 Expiration of medical assistance programs under titles I, IV-A, X, XIV and XVI of the Social Security Act.

(a) Under the provisions of section 121(b) of Pub. L. 89-97, enacted July 30, 1965, no payment may be made to any State under title I, IV-A, X, XIV or XVI of the Social Security Act for aid or assistance in the form of medical or any other type of remedial care for any period after December 31, 1969. However, these provisions do not affect the availability of Federal financial participation in the cost of medical or remedial care furnished under title IV-A of the Act (pursuant to sections 403(a)(5) and 406(e)) of the Act, as emergency assistance to needy families with children (see § 233.120 of this part), subject to the provisions of paragraph (c)¹ of this section. Federal financial participation in vendor payments for medical care and services is not otherwise available except under title XIX of the Act.

(b) Under the provisions of section 4(c) of Pub. L. 92-223, enacted December 28, 1971, and the provisions of section 292 of Pub. L. 92-603, enacted October 30, 1972:

(1) In the case of any State which on January 1, 1972, had in effect a State plan approved under title XIX of the Social Security Act, section 1121 of the Act authorizing payments under title I, X, XIV, or XVI of the Act for assistance in the form of institutional services in intermediate care facilities is rescinded; and

(2) In the case of any State which on January 1, 1972, did not have in effect a State plan approved under title XIX of the Act, Federal financial participation is available in assistance in the

form of institutional services in intermediate care facilities pursuant to section 1121 of the Act and under the provisions of § 234.130 of this chapter until the first day of the first month after January 1, 1972, that the State has in effect a State plan approved under title XIX.

(c)(1) Under the provisions of section 249D of Pub. L. 92-603, enacted October 30, 1972, Federal matching is not available for any portion of any payment by any State under titles I, IV-A, X, XIV, or XVI of the Social Security Act for or on account of any medical or any other type of remedial care provided by an institution to any individual as an inpatient thereof, in the case of any State which has a plan approved under title XIX of such Act, if such care is (or could be provided, under a State plan approved under title XIX of such Act, by an institution certified under such title XIX. The effective date of this proposed provision will be the date of publication of the final regulation in the FEDERAL REGISTER.

(2) For purposes of this paragraph,

(i) An institution (see § 233.60(b)(1) of this chapter) is considered to provide medical or remedial care if it provides any care or service beyond room and board because of the physical or mental condition (or both) of its inpatients;

(ii) An inpatient is an individual who is living in an institution which provides medical or remedial care and who is receiving care or service beyond room and board because of his physical or mental condition (or both).

(iii) Federal financial participation is not available for any portion of the payment for care of an inpatient. It is immaterial whether such payment is made as a vendor payment or as a money payment or other cash assistance payment. It is also immaterial whether the payment is divided into components, such as separate amounts or payments for room and board, and for care or services beyond room and board, or whether the payment is considered to meet "basic" needs or "special" needs. If, however, a money payment (or protective payment) is made to an individual who is living in an institution, and such payment does not exceed a reasonable rate for room, board and laundry for individuals not

¹ See notice published Aug. 29, 1973 (38 FR 23337).